

REMARKS/ARGUMENTS

Status of the Claims

Upon entry of the present amendment, claims 47-49 are pending.

The Present Amendment

No new matter is added by the present amendments.

The independent claims are amended to recite an isolated protein comprising the full length protein of SEQ ID NO:2, which restates claim 19 prior to the amendment of March 2, 2006. Similarly, claims 48 and 49 restate claims previously presented.

Telephone Discussion and Proposed Amendment

On April 10, 2007, the Examiner and the undersigned counsel for the Applicants had a telephone discussion regarding the claims. The undersigned proposed amending the claims to recite recombinant proteins comprising the full-length amino acid sequence of SEQ ID NO:2, compositions comprising the proteins in combination with a pharmaceutically acceptable carrier, and compositions further comprising an adjuvant. After consideration of a proposed set of claims, the Examiner left a voice mail for the undersigned on May 7, 2007, indicating that the claims as proposed were allowable if submitted as a formal amendment. The current submission places in a formal amendment the claims indicated by the Examiner to be allowable.

Anticipation Rejection of Claim 19

As noted in the telephone discussion and in the proposed amendment, claim 47 as presented herein replaces claim 19. The only standing rejection applied to claim 19 is a rejection under §102(b) as being anticipated by Chang and Pastan, Cancer Res 52:181-186 (1992) ("Chang"). This rejection is, however, erroneous on its face as applied to claim 19, and it does not apply to the claims as presented herein.

Claim 19 (prior to its cancellation herein) recited an isolated recombinant protein comprising the full length protein of SEQ ID NO.:2. As set forth in the sequence listing and in Figure 1, SEQ ID NO.:2 is a 628 amino acid protein which the specification states has a calculated molecular weight of 69001 Daltons. See, SEQ ID NO.:2, Figure 1, and specification at page 55 (on lines 11-12 down from the subheading "C. Summary of Results"). The anticipation rejection rests on Figure 3 of Chang, which shows an immunoblot showing detection of a 40 kD antigen released from specified cells after enzymatic treatment. The 40,000 Dalton protein detected in the Chang immunoblot is thus some 30,000 Daltons smaller than the protein of SEQ ID NO.:2, and clearly cannot comprise a 69,000 Dalton protein of the full 628 amino acid sequence set forth in SEQ ID NO.:2. As the Examiner will appreciate, to anticipate a claim, a reference must recite each and every element of the claim. Chang does not teach a protein possessing all the elements recited in claim 19 and therefore cannot anticipate claim 19.

Claim 47, which replaces previous claim 19, recites "isolated" proteins, rather than "isolated recombinant" proteins. The term "recombinant" was introduced in the supplemental amendment dated March 2, 2006, because the Examiner had indicated this would address her concerns that the Chang reference showed an "isolated" protein. See, March 2, 2006 Amendment, at page 6. As shown above, however, the 40 kD protein detected in the immunoblot depicted as Figure 3 of Chang does not meet the element of comprising a protein of the full length, 628 amino acid sequence set forth in SEQ ID NO.:2, and therefore cannot anticipate the claim. The term "recombinant" is therefore not needed to differentiate proteins comprising the full length sequence of SEQ ID NO.:2, as recited by the claims presented herein, from the 40 kD antigen detected in the immunoblot shown in Figure 3 of Chang.

Accordingly, the rejection of the claims as anticipated by Chang is inapplicable to the claims presented herein.

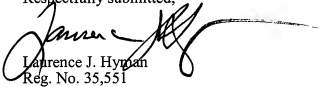
In re Pastan et al.
Appl. No. 09/684,599
Date: May 9, 2007
Reply to Office Action of May 10, 2006

PATENT

CONCLUSION

In view of the foregoing, Applicants believe the claims herein are in condition for allowance. If the Examiner believes a further telephone conference would expedite prosecution of this application, she is invited to call the undersigned at 415-576-0200.

Respectfully submitted,



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